

1 BILL LOCKYER
Attorney General
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 SUSAN K. MEADOWS
Deputy Attorney General
4 State Bar No.115092
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102
Telephone: (415) 703-5552
6 Facsimile: (415) 703-5408
Attorneys for Complainant
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9 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 **In the Matter of the Amended Accusation Against:**

13 **ARTHUR WILLIAM MATTMILLER, PT**
14 **43 Ironship Plaza**
San Francisco, CA 94411

15 **License No. PT 6447**

16 **Respondent**
17

CASE NO. 1D 2003 63698
1D 2004 63946

AMENDED ACCUSATION

18
19 The Complainant alleges:

20 **PARTIES**

21 1. Complainant, Steven K. Hartzell, is the Executive Officer of the Physical Therapy
22 Board of California (hereinafter the "Board") and brings this amended accusation solely in his
23 official capacity.

24 2. On or about July 27, 1973, the Board issued Physical Therapy License No. PT 6447 to
25 Arthur William Mattmiller, PT ("respondent"). The license expires on May 31, 2007 unless
26 renewed. Respondent has no prior history of disciplinary action against his license.

27 **JURISDICTION**

28 3. This amended accusation is brought before the Board under the authority of the

1 following sections of the California Business and Professions Code (hereinafter “Code”):

2 A. Section 118 (b) of the Code provides, in relevant part, that the suspension, expiration,
3 or forfeiture by operation of law of a license issued by a board in the department, or its
4 suspension, forfeiture, or cancellation by the order of the board or by order of a court of law or its
5 surrender without the written consent of the board, shall not, during any period in which it may
6 be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or
7 continue a disciplinary proceeding against the licensee upon any ground provided by law or to
8 enter an order suspending or revoking the license or otherwise taking disciplinary action against
9 the licensee on any such ground.

10 B. Section 2608.5 of the Code provides:

11 Each member of the board, or any physical therapist appointed by the board, may inspect,
12 or require reports from, a general or specialized hospital or any other facility providing physical
13 therapy care, treatment or services and the physical therapy staff thereof, with respect to the
14 physical therapy care, treatment, services, or facilities provided therein, and may inspect physical
15 therapy patient records with respect to the care, treatment, services, or facilities. The authority to
16 make inspections and to require reports as provided by this section shall not be delegated by a
17 member of the board to any person other than a physical therapist and shall be subject to the
18 restrictions against disclosure described in Section 2263.

19 C. Section 2630 of the Code provides:

20 It is unlawful for any person or persons to practice, or offer to practice, physical therapy
21 in this state for compensation received or expected, or to hold himself or herself out as a physical
22 therapist, unless at the time of so doing the person holds a valid, unexpired, and unrevoked
23 license issued under this chapter. Nothing in this section shall restrict the activities authorized by
24 their licenses on the part of any persons licensed under this code or any initiative act, or the
25 activities authorized to be performed pursuant to Article 4.5 (commencing with section 2655) or
26 Chapter 7.7 (commencing with section 3500). A physical therapist licensed pursuant to this
27 chapter may utilize the services of one aide engaged in patient-related tasks to assist the physical
28 therapist in his or her practice of physical therapy. “Patient-related task” means a physical

1 therapy service rendered directly to the patient by an aide, excluding non-patient-related tasks.
2 “Non-patient-related task” means a task related to observation of the patient, transport of the
3 patient, physical support only during gait or transfer training, housekeeping duties, clerical
4 duties, and similar functions. The aide shall at all times be under the orders, direction, and
5 immediate supervision of the physical therapist. Nothing in this section shall authorize an aide to
6 independently perform physical therapy or any physical therapy procedure. The board shall
7 adopt regulations that set forth the standards and requirements for the orders, direction, and
8 immediate supervision of an aide by a physical therapist. The physical therapist shall provide
9 continuous and immediate supervision of the aide. The physical therapist shall be in the same
10 facility as, and in proximity to, the location where the aide is performing patient-related tasks,
11 and shall be readily available at all times to provide advice or instructions to the aide. When
12 patient-related tasks are provided to a patient by an aide, the supervising physical therapist shall,
13 at some point during the treatment day, provide direct service to the patient as treatment for the
14 patient’s condition, or to further evaluate and monitor the patient’s progress, and shall
15 correspondingly document the patient’s record. The administration of massage, external baths,
16 or normal exercise not a part of a physical therapy treatment shall not be prohibited by this
17 section.

18 D. Section 2620.7 of the Code provides:

19 (a) A physical therapist shall document his or her evaluation, goals, treatment
20 plan, and summary of treatment in the patient record.

21 (b) A physical therapist shall document the care actually provided to a patient in
22 the patient record.

23 (c) A physical therapist shall sign the patient record legibly.

24 (d) Patient records shall be maintained for a period of no less than seven years
25 following the discharge of the patient, except that the records of unemancipated minors
26 shall be maintained at least one year after the minor has reached the age of 18 years, and
27 not in any case less than seven years.
28

1 E. Section 726 of the Code provides:

2 The commission of any act of sexual abuse, misconduct, or relations with a patient, client,
3 or customer constitutes unprofessional conduct and grounds for disciplinary action for any person
4 licensed under this division, under any initiative act referred to in this division and under Chapter
5 17 (commencing with section 9000) of Division 3.

6 F. Section 2660.1 of the Code provides:

7 A patient, client, or customer of a licensee under this chapter is conclusively presumed
8 to be incapable of giving free, full, and informed consent to any sexual activity which is a
9 violation of 726.

10 G. Section 2660 of the Code provides, in pertinent part, that the Board may suspend,
11 revoke or impose probationary conditions upon any license for unprofessional conduct that
12 includes, ***but is not limited to***, one or any combination of the following causes:

13 (h) Gross negligence in his or her practice as a physical therapist or physical
14 therapy assistant.

15 (i) Violating or attempting to violate directly or indirectly, . . . any provision
16 or term of this chapter or of the ***State Medical Practice Act***. (Emphasis added)

17 (j) The aiding or abetting of any person to violate this chapter or any regulations
18 duly adopted under this chapter.

19 (k) The aiding or abetting of any person to engage in the unlawful practice of
20 physical therapy.

21 (l) The commission of any fraudulent, dishonest, or corrupt act which is
22 substantially related to the qualifications, functions, or duties of a physical therapist.

23 (n) The commission of verbal abuse or sexual harassment.

24 H. Title 16, Section 1398.11 of the California Code of Regulations (hereinafter “CCR”)
25 provides:

26 Pursuant to Section 680 of the Code, each supervising licensed physical therapist shall
27 require all physical therapy aides, applicants, students and interns performing patient related
28 tasks under his or her supervision to display while working his or her name and working title on

1 a name tag in at least 18-point type.

2 I. Title 16, Section 1399 of the CCR provides:

3 A physical therapy aide is an unlicensed person who assists a physical therapist and may
4 be utilized by a physical therapist in his or her practice by performing nonpatient related tasks, or
5 by performing patient related tasks.

6 (a) As used in these regulations:

7 (1) A “patient related task” means a physical therapy service rendered
8 directly to the patient by an aide, excluding nonpatient related tasks as defined
9 below.

10 (2) A “nonpatient related task” means a task related to observation of the
11 patient, transport of patients, physical support only during gait or transfer training,
12 housekeeping duties, clerical duties and similar functions.

13 (b) “Under the orders, direction and immediate supervision” means:

14 (1) Prior to the initiation of care, the physical therapist shall evaluate
15 every patient prior to the performance of any patient related tasks by the aide. The
16 evaluation shall be documented in the patient’s record.

17 (2) The physical therapist shall formulate and record in the patient’s
18 record a treatment program based upon the evaluation and any other information
19 available to the physical therapist, and shall determine those patient related tasks
20 which may be assigned to an aide. The patient’s record shall reflect those patient
21 related tasks that were rendered by the aide, including the signature of the aide
22 who performed those tasks.

23 (3) The physical therapist shall assign only those patient related tasks that
24 can be safely and effectively performed by the aide. The supervising physical
25 therapist shall be responsible at all times for the conduct of the aide while he or
26 she is on duty.

27 (4) The physical therapist shall provide continuous and immediate
28 supervision of the aide. The physical therapist shall be in the same facility as and

1 in immediate proximity to the location where the aide is performing patient
2 related tasks, and shall be readily available at all times to provide advice or
3 instruction to the aide. When patient related tasks are provided to a patient by an
4 aide the supervising physical therapist shall at some point during the treatment day
5 provide direct service to the patient as treatment for the patient's condition or to
6 further evaluate and monitor the patient's progress, and so document in the
7 patient's record.

8 (5) The physical therapist shall perform periodic re-evaluation of the
9 patient as necessary and make adjustments in the patient's treatment program.
10 The re-evaluation shall be documented in the patient's record.

11 (6) The supervising physical therapist shall countersign with their first
12 initial and last name, and date all entries in the patient's record, on the same day
13 as patient related tasks were provided by the aide.

14 **COSTS**

15 4. Section 2661.5 of the Code provides, in part, that the Board may request the
16 administrative law judge to direct any licensee found to have committed unprofessional conduct
17 to pay the Board a sum not to exceed the actual and reasonable costs of the investigation and
18 prosecution of the case.

19 **FIRST CAUSE FOR DISCIPLINARY ACTION**

20 **(Sexual Misconduct and/or Sexual Harassment and/or Unprofessional**
21 **Conduct and/or Gross Negligence)**

22 5. On or about November 4, 2003, respondent undertook to treat patient, L.L.^{1/} who
23 suffered from an IT Band injury and required physical therapy. During this visit, L.L. changed
24 into jogging shorts and respondent performed physical therapy exercises on her leg. During this
25 visit, a physical therapy aide, "Leonard" began to do some exercises with L.L. while respondent
26 was working with other patients. "Leonard" gave L.L. a stretch band and exercise diagrams and
27

28 1. Initials are used to protect the patient's right to privacy. The identity of the patient
will be disclosed to respondent pursuant to any request for discovery.

1 respondent suggested that L.L. buy new running shoes. L.L. did not receive diathermy treatment
2 during this visit. L.L. made another appointment for November 6, 2003.

3 6. On or about November 6, 2003, L.L. returned to respondent's office for physical
4 therapy. She was greeted by "Leonard" who gave her a medical gown to put on because she had
5 forgotten to bring her running shorts. After putting on the gown, L.L. was told to go to a room
6 where there were therapy tables and was told to lie down on one of the tables. There was a male
7 patient on one of the other therapy tables, however, the two tables were separated by a medical
8 folding screen. Respondent asked L.L. to lie on her left side with her back side facing him.
9 Respondent moved close to her hip and moved his hand under her gown to her hip and began
10 rubbing her hip area. L.L. was wearing G-string underwear and there was no clothing between
11 respondent's hand and her skin while he rubbed her hip and leg. At some point during this
12 massage, respondent sat on the table and placed L.L.'s legs on his lap, and continued to rub her
13 hip and leg while she was lying on her side facing the opposite wall. Respondent did not tell L.L.
14 what he was doing and he did not say anything. When respondent was finished massaging her
15 hip and leg, he jumped off the table, smacked her on her buttocks, then patted her head and told
16 her he would send "Len" in to do some heat work. L.L. felt very uncomfortable with
17 respondents's actions.

18 7. After respondent left the room, "Leonard" came in and used a heat machine
19 (diathermy) on her hip. After the diathermy treatment, L.L. got dressed to leave the office.
20 "Leonard" told her to continue with her exercises. As she was leaving, respondent, who was
21 sitting behind a desk, looked up at her, smiled and said "Thank you for letting me have my way
22 with you". L.L. was very upset and did not return to respondent for any further treatment.

23 8. Respondent's conduct while treating L.L. and as set forth in paragraphs 6 through 8,
24 inclusive, constitutes unprofessional conduct under section 2660 of the Code, and/or sexual
25 misconduct under section 726 of the Code and/or sexual harassment under section 2660 (n) of
26 the Code and/or gross negligence under section 2660(h) of the Code. Therefore, cause for
27 discipline exists.

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1 patient related tasks, exercises, and diathermy treatment were rendered by “Leonard” a physical
2 therapy aide employed by respondent. Therefore, cause for discipline exists.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Patient A)**

5 **(Violating Chapter or Regulations, and/or Aiding and Abetting the Practice** 6 **of Physical Therapy and/or Aiding or Abetting Another Person to Violate the** 7 **Chapter or Regulations, and/or Gross Negligence and/or Unprofessional** 8 **Conduct)**

9 13. On or about January 27, 2004, pursuant to section 2608.5 of the Code, a board
10 appointed physical therapist, D.E., conducted an onsite inspection of respondent’s physical
11 therapy practice. During that visit, D.E. observed an aide “Marion” massaging patient A. This
12 massage by the aide is not reflected in this patient’s chart for January 27, 2004 as required under
13 section 2620.7 of the Code and Title 16, Section 1399(b) of the CCR. In addition, this patient’s
14 chart contains no referral or other documentation to establish a medical diagnosis and the
15 evaluation is mostly illegible in violation of section 2620.7 of the Code. In addition, D.E.
16 observed that neither “Marion”, an aide, nor “Leonard”, an aide, nor respondent were wearing
17 appropriate name tags present on their person in violation of Title 16, section 1398.11 of the
18 CCR.

19 14. With respect to each of the above referenced violations alleged in paragraph 13
20 above, whether proven individually or jointly, cause for discipline exists pursuant to section
21 2660(i) (violating or attempting to violate any term of this chapter or regulation) and/or 2660(j)
22 aiding and abetting of any person to violate this chapter or any regulations duly adopted under
23 this chapter) and/or section 2660(l) (gross negligence). Therefore, cause for discipline exists.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **Patient B**

26 **(Violating Chapter or Regulations, and/or Aiding and Abetting the Practice** 27 **of Physical Therapy and/or Aiding or Abetting Another Person to Violate the** 28 **Chapter or Regulations, and/or Unprofessional Conduct)**

15. On or about January 27, 2003, pursuant to section 2608.5 of the Code, a board
appointed physical therapist, D.E., conducted an onsite inspection of respondent’s physical
therapy practice. During this visit, D.E. observed “Leonard” supervising exercises with Patient

1 B., however, there is no documentation of “Leonard’s” involvement with this patient in Patient
2 B’s chart in violation of section 2620.7 of the Code (failure to maintain adequate patient record)
3 and/or section 2660 (j) (aiding and abetting a physical therapy aide to violate this chapter and
4 regulations duly adopted under the chapter) and/or section 1399(b)(2) of Title 16 of the CCR (the
5 patient’s record shall reflect those patient related tasks that were rendered by the aide, including
6 the signature of the aide who performed those tasks) and/or section 2660(i) (violating or
7 attempting to violate any term of this chapter or regulation and/or unprofessional conduct).
8 Therefore, cause for discipline exists.

9 16. D.E. observed that this patient’s chart contains no referral or other documentation to
10 establish a medical diagnosis and the evaluation is mostly illegible in violation of section 2620.7
11 of the Code. Respondent’s conduct and/or omissions as alleged above constitute cause for
12 discipline pursuant to section 2660(i) of the Code (violating or attempting to violate any term of
13 this chapter or regulation and/or unprofessional conduct).

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Patient C)**

16 **(Violating Chapter or Regulations, and/or Aiding and Abetting the Practice** 17 **of Physical Therapy and/or Aiding or Abetting Another Person to Violate the** 18 **Chapter or Regulations and/or Unprofessional Conduct)**

19 17. On or about January 27, 2004, pursuant to section 2608.5 of the Code, a board
20 appointed physical therapist, D.E., conducted an onsite inspection of respondent’s physical
21 therapy practice. During that visit, he observed two different handwriting styles in patient C’s
22 chart but only one signature. D.E. also noted that the evaluation performed on January 14, 2004
23 was illegible and substandard in that no objective measurements to establish baselines for the
24 patient’s status are found, there is no referral or other documentation to establish a medical
25 diagnosis, and no discharge summary is present.

26 18. Whether proven singularly or jointly, respondent’s conduct and/or omissions alleged
27 above constitute violations of section 2620.7 of the Code (failure to maintain adequate patient
28 record) and/or section 2660 (j) (aiding and abetting a physical therapy aide to violate this chapter
and regulations duly adopted under the chapter) and/or section 1399(b)(2) of Title 16 of the CCR

(the patient's record shall reflect those patient related tasks that were rendered by the aide, including the signature of the aide who performed those tasks) and/or section 2660(i) (violating or attempting to violate any term of this chapter or regulation and/or unprofessional conduct). Therefore, cause for discipline exists.

SIXTH CAUSE FOR DISCIPLINE

(Patient D)

(Violating Chapter or Regulations, and/or Aiding and Abetting the Practice of Physical Therapy and/or Aiding or Abetting Another Person to Violate the Chapter or Regulations and/or Unprofessional Conduct)

19. On or about January 27, 2003, pursuant to section 2608.5 of the Code, a board appointed physical therapist, D.E., conducted an onsite inspection of respondent's physical therapy practice. During that visit, he observed two different handwriting styles in patient D's chart but only one signature. Respondent was advised at that time of the regulations requiring entries and signature by all parties providing care to the patients. When D.E. reviewed patient D's chart provided to him in June of 2004, he noted that on February 3, 2004, patient D's chart once again contained two different handwriting styles but only one signature. Patient D's chart was mostly illegible, the medical diagnosis/referral was missing, and no discharge summary was found.

20. Respondent's conduct and/or omissions as alleged above, whether proven singularly or jointly, constitute violations of section 2620.7 of the Code (failure to maintain adequate patient record) and/or section 2660(j) (aiding and abetting a physical therapy aide to violate this chapter and regulations duly adopted under the chapter) and/or section 1399(b)(2) of Title 16 of the CCR (the patient's record shall reflect those patient related tasks that were rendered by the aide, including the signature of the aide who performed those tasks) and/or section 2660(i) (violating or attempting to violate any term of this chapter or regulation and/or unprofessional conduct). Therefore, cause for discipline exists.

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1 **SEVENTH CAUSE FOR DISCIPLINARY ACTION**

2 **(Patient A-1)**

3 **(Violating Chapter or Regulations, and/or Aiding and Abetting the Practice**
4 **of Physical Therapy and/or Aiding or Abetting Another Person to Violate the**
5 **Chapter or Regulations, and/or Gross Negligence and/or Unprofessional**
6 **Conduct)**

6 21. On or about July 20, 2004, the Board received a complaint from the State
7 Compensation Insurance Fund that respondent, as the supervising physical therapist, was
8 allowing two individuals, O.D., and G. L., to work under the status of a physical therapist license
9 applicant (PTLA) when these individuals were not approved by the Board to working under this
10 status.

11 22. On or about March 9, 2005, pursuant to section 2608.5 of the Code, a board
12 appointed physical therapist, D.E. conducted an onsite inspection of respondent's physical
13 therapy practice. During the time period covered in the records reviewed by D.E., respondent
14 was the only physical therapist in the facility licensed to practice physical therapy. At no time
15 during the periods stated herein were individuals, B.G., G.L., L.L, or O.D., as listed on the
16 treatment records reviewed by D.E., licensed as a physical therapist and they did not have
17 physical therapist license applicant status. B.G., G.L., L.L. and O.D. could only work as a
18 physical therapy aide under respondent's supervision pursuant to Title 16, section 1399 of the
19 CCR.

20 23. During the March 2005 review, it was noted that in patient A-1's chart, on June 21,
21 2004, O.D. and G.L. are listed as physical therapists on the top of the letter head which also
22 bears the name of respondent. On that same document, G.L. and O.D. are also listed as having
23 PTLA status when in fact neither was authorized to perform as a PTLA.

24 24. On July 26, 2004, O.D. prescribed exercises for patient A-1 as a PTLA when in fact
25 he was not authorized to function as a physical therapist or a PTLA.

26 25. With respect to the care and treatment patient A-1, there is no evidence of
27 involvement by respondent in the care of this patient other than by co-signature.

28 26. Respondent's conduct and/or omissions as alleged above, whether proven singularly

or jointly, constitute violations of section 2620.7 of the Code (failure to maintain adequate patient record) and/or section 2660(j) (aiding and abetting a physical therapy aide to violate this chapter and regulations duly adopted under the chapter) and/or section 1399(b)(2) of Title 16 of the CCR (the patient's record shall reflect those patient related tasks that were rendered by the aide, including the signature of the aide who performed those tasks) and/or section 2660(i) (violating or attempting to violate any term of this chapter or regulation) and/or section 2660(h) (gross negligence) and/or unprofessional conduct. Therefore, cause for discipline exists.

EIGHTH CAUSE FOR DISCIPLINARY ACTION

(Patient D-1)

(Violating Chapter or Regulations, and/or Aiding and Abetting the Practice of Physical Therapy and/or Aiding or Abetting Another Person to Violate the Chapter or Regulations, and/or Gross Negligence and/or Unprofessional Conduct)

27. The allegations of paragraphs 21 and 22 are incorporated herein as if fully set forth.

28. During the March 2005 review of patient D-1's chart, D.E. noted that on the November 10, 2004 report, it is signed by O.D. as a physical therapist and there is no co-signature by respondent. On the November 8, 2004, visit, it is signed by L.L. as a Physical Therapist Foreign Trained (PTFT) with no co-signature by respondent. On October 27, 2004, care is documented by B.G. acting as a (PTFT) with an illegible co-signature identified by respondent as being his. On November 3 and November 5, 2004, care is provided by O.D. as a PTFT with an illegible co-signature identified as respondent as being his. In all of these notes, there is no evidence that respondent provided any care to these clients.

29. Whether proven singularly or jointly, respondent's conduct and/or omissions alleged above constitute violations of section 2620.7 of the Code (failure to maintain adequate patient record) and/or section 2660 (j) (aiding and abetting a physical therapy aide to violate this chapter and regulations duly adopted under the chapter) and/or section 1399(b)(2) of Title 16 of the CCR (the patient's record shall reflect those patient related tasks that were rendered by the aide, including the signature of the aide who performed those tasks) and/or section 2660(i) (violating or attempting to violate any term of this chapter or regulation) and/or section 2660 (h) (gross

negligence) and/or unprofessional conduct. Therefore, cause for discipline exists.

NINTH CAUSE FOR DISCIPLINARY ACTION

(Patient E-1)

(Violating Chapter or Regulations, and/or Aiding and Abetting the Practice of Physical Therapy and/or Aiding or Abetting Another Person to Violate the Chapter or Regulations, and/or Gross Negligence and/or Dishonest Acts and/or Unprofessional Conduct)

30. The allegations of paragraphs 21 and 22 are incorporated herein as if fully set forth.

31. During the March 2005 review of patient E-1's chart, D.E. noted a discharge report that was signed by B.G. as a PTFT. At the time of the on site review in March of 2005, there was no co-signature noted. However, when the records were subsequently produced to the investigator by respondent in April of 2005 and reviewed by D.E., the discharge report contained respondent's co-signature and that of another identifiable individual.

32. During the March 2005 review, D.E. noted a new patient evaluation that was signed by O.D., PTLA (the letterhead on the report indicated, O.D. "P.T."). No co-signature or other involvement by a physical therapist was indicated when D.E. first reviewed this record. When the records were subsequently produced to the investigator by respondent in April of 2005 and reviewed by D.E., the new patient evaluation contained a co-signature by respondent.

33. Whether proven singularly or jointly, respondent's conduct and/or omissions alleged above constitute violations of section 2620.7 of the Code (failure to maintain adequate patient record) and/or section 2660 (j) (aiding and abetting a physical therapy aide to violate this chapter and regulations duly adopted under the chapter) and/or section 1399(b)(2) of Title 16 of the CCR (the patient's record shall reflect those patient related tasks that were rendered by the aide, including the signature of the aide who performed those tasks) and/or section 2660(i) (violating or attempting to violate any term of this chapter or regulation) and/or section 2660(l), altering patient records (a dishonest and corrupt act) and/or section 2660(h) (gross negligence) and/or unprofessional conduct. Therefore, cause for discipline exists.

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1 **TENTH CAUSE FOR DISCIPLINARY ACTION**

2 **(Patient F-1)**

3 **(Violating Chapter or Regulations, and/or Aiding and Abetting the Practice**
4 **of Physical Therapy and/or Aiding or Abetting Another Person to Violate the**
5 **Chapter or Regulations, and/or Gross Negligence, and/or Unprofessional**
6 **Conduct)**

7 34. The allegations of paragraphs 21 and 22 are incorporated herein as if fully set forth.

8 35. During the March 2005 interview, D.E. noted that the discharge report for patient F-1
9 was signed by O.D. as a "PT". B.G. completed and signed notes as a PTFT on October 20,
10 2004 and October 25, 2004. On October 04, 2004, October 6, 2004, and September 27, 2004, the
11 notes are completed and signed by G.L. as a PTFT. On October 18, 2004, a visit note is
12 completed by L.L. as a PTFT. There is no evidence of involvement by respondent in the care of
13 this client other than by a co-signature.

14 36. Whether proven singularly or jointly, respondent's conduct and/or omissions alleged
15 above constitute violations of section 2620.7 of the Code (failure to maintain adequate patient
16 record) and/or section 2660 (j) (aiding and abetting a physical therapy aide to violate this chapter
17 and regulations duly adopted under the chapter) and/or section 1399(b)(2) of Title 16 of the CCR
18 (the patient's record shall reflect those patient related tasks that were rendered by the aide,
19 including the signature of the aide who performed those tasks) and/or section 2660(i) (violating
20 or attempting to violate any term of this chapter or regulation) and/or section 2660(h) (gross
21 negligence) and/or unprofessional conduct. Therefore, cause for discipline exists._

22 **ELEVENTH CAUSE FOR DISCIPLINARY ACTION**

23 **(Patient H-1)**

24 **(Violating Chapter or Regulations, and/or Aiding and Abetting the Practice**
25 **of Physical Therapy and/or Aiding or Abetting Another Person to Violate the**
26 **Chapter or Regulations, and/or Gross Negligence, and/or Unprofessional**
27 **Conduct)**

28 37. The allegations of paragraphs 21 and 22 are incorporated herein as if fully set forth.

38. During the March 2005 review, D.E. noted that for patient H-1, the initial evaluation
of October 15, 2004 (two pages), contained no signatures. Subsequently, when respondent

1 produced this record to the investigator in April of 2005 and it was reviewed by D.E., the
2 October 15, 2004 evaluation contained the signature of respondent.

3 39. On patient H-1 visit notes of November 1, 2004, November 3, 2004, November 5,
4 2004, November 8, 2004 and November 10, 2004, L.L. signed these notes as a PTFT. They are
5 co-signed by respondent.

6 40. Other than a co-signature, there is no evidence that respondent was involved in the
7 care of this client.

8 41. Whether proven singularly or jointly, respondent's conduct and/or omissions alleged
9 above constitute violations of section 2620.7 of the Code (failure to maintain adequate patient
10 record) and/or section 2660 (j) (aiding and abetting a physical therapy aide to violate this chapter
11 and regulations duly adopted under the chapter) and/or section 1399(b)(2) of Title 16 of the CCR
12 (the patient's record shall reflect those patient related tasks that were rendered by the aide,
13 including the signature of the aide who performed those tasks) and/or section 2660(i) (violating
14 or attempting to violate any term of this chapter or regulation) and/or section 2660(l), altering
15 patient records (a dishonest and corrupt act) and/or section 2660(h) (gross negligence) and/or
16 unprofessional conduct. Therefore, cause for discipline exists.

17 TWELFTH CAUSE FOR DISCIPLINARY ACTION

18 (Patient I-1)

19 (Violating Chapter or Regulations, and/or Aiding and Abetting the Practice 20 of Physical Therapy and/or Aiding or Abetting Another Person to Violate the 21 Chapter or Regulations, and/or Gross Negligence, Dishonest and Corrupt Acts, and/or Unprofessional Conduct)

22 42. The allegations of paragraphs 21 and 22 are incorporated herein as if fully set forth.

23 43. On March 2005, D.E. reviewed the chart of patient I-1. During this review, D.E.
24 noted that the April 28, 2004 discharge report was substandard in that it contained no objective
25 data regarding the patients' condition and it had no signatures. An evaluation dated March 8,
26 2004 contained no signatures. An April 14, 2004 progress report contained no signatures. A
27 written evaluation signed by O.D. as a PTLA had no co-signature. A note by L.L. as a PT aide
28 manager had no co-signature. A visit and note dated May 5, 2004 and signed by O.D. as a PTLA

1 had no co-signature.

2 44. Subsequent to the March 2005 review, respondent produced patient I-1's records to
3 the investigator and these records were then reviewed by D.E. in April of 2005. During the April
4 review, D.E. noted that respondent had altered the records previously reviewed and that the
5 signature and/or co-signature of respondent now appeared on all documents. D.E. noted that
6 there is no evidence of involvement by respondent in the care of this client other than by a co-
7 signature.

8 45. Whether proven singularly or jointly, respondent's conduct and/or omissions alleged
9 above constitute violations of section 2620.7 of the Code (failure to maintain adequate patient
10 record) and/or section 2660 (j) (aiding and abetting a physical therapy aide to violate this chapter
11 and regulations duly adopted under the chapter) and/or section 1399(b)(2) of Title 16 of the CCR
12 (the patient's record shall reflect those patient related tasks that were rendered by the aide,
13 including the signature of the aide who performed those tasks) and/or section 2660(i) (violating
14 or attempting to violate any term of this chapter or regulation) and/or section 2660(l), altering
15 patient records (a dishonest and corrupt act) and/or section 2660(h) (gross negligence) and/or
16 unprofessional conduct. Therefore, cause for discipline exists.

17 **PRAYER**

18 **WHEREFORE**, the complaint request that a hearing be held on the matters
19 herein alleged, and that following the hearing the Board issue a D.E. cision:

20 1. Revoking or suspending License Number PT 6477 issued to respondent Arthur
21 William Mattmiller:

22 2. Ordering respondent to pay the Board the reasonable costs of the investigation
23 and enforcement of this case;

24 3. Ordering respondent to pay any and all costs associated with probation
25 monitoring should respondent be placed on probation; and,

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4. Taking such other and further action as the Board deems necessary and proper.

DATED: July 13, 2005

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California

Mattmiller.amended acc
Mattmiller Amended Accusation.wpd